

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Josue Mendez Goetz	Team: Team # 1	CCRB Case #: 200606364	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/17/2006 1:15 AM	Location of Incident: Houston Street near Broadway	Precinct: 06	18 Mo. SOL 11/17/2007	EO SOL 11/17/2007	
Date/Time CV Reported Wed, 05/17/2006 8:59 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 05/17/2006 8:59 AM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Wilson Vernelly	19278	929308	006 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Markian Kopystianskyj	16425	936884	006 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Wilson Vernelly	Discourtesy: PO Wilson Vernelly spoke obscenely and/or rudely to § 87(2)(b)				

Synopsis

On May 17, 2006, at approximately 1:15 AM, § 87(2)(b) and § 87(2)(b) were in § 87(2)(b)'s car driving on Houston Street near Broadway. PO Markian Kopystianskyj and PO Wilson Vernelly of the 6th Precinct were in a police vehicle, also driving on Houston Street. In so doing, they noticed that § 87(2)(b) was driving without wearing a seatbelt, thus, they proceeded to stop § 87(2)(b)'s vehicle. While the officers were pulling him over, § 87(2)(b) put his seatbelt on, but admitted that he was not wearing it before they pulled him over. PO Kopystianskyj approached § 87(2)(b) by the driver's side while PO Vernelly approached § 87(2)(b) by the passenger's side. § 87(2)(b) questioned PO Kopystianskyj about whether or not police officers are permitted to pull people over for a seatbelt violation alone. PO Kopystianskyj did not respond, but PO Vernelly said, "Are you fucking kidding me? I cannot believe you are asking me this fucking question. We pulled you over and you are not wearing the seat belt. To make matters worse, you put your seatbelt on while we were pulling you over." In his response, PO Vernelly allegedly used the word "fuck" various times and in different permutations (**Allegation A**). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Later that day, § 87(2)(b) filed a complaint with the CCRB on-line. On May 18, 2006, the undersigned investigator called § 87(2)(b) explaining to him the investigative and mediation processes. On this same day, § 87(2)(b) decided to resolve his complaint through the mediation process. On May 23, 2006, the investigator referred this case to the Alternative Dispute Resolution unit (ADR). However, on July 27, 2006, PO Vernelly rejected mediation, and ADR returned this case to the investigator.

Summary of Complaint

§ 87(2)(b)'s on-line complaint:

§ 87(2)(b) filed an on-line complaint with the CCRB on May 17, 2006. In this complaint, § 87(2)(b) stated that he was the passenger in a car that was pulled over because the driver, § 87(2)(b) was not wearing his seatbelt. An officer approached the driver side of the car and asked § 87(2)(b) why he was not wearing his seat belt. § 87(2)(b) responded that he was wearing his seatbelt. The officer pointed out that he had just put it on in the course of the stop. § 87(2)(b) admitted to that, and asked whether or not it was permitted to pull people over for a seat belt violation alone. A second officer, who to this point had been standing by the passenger door, said that he couldn't believe that the driver had asked such a question; that the driver had clearly not been wearing his seatbelt; that he had made things worse for himself by putting on his seatbelt during the course of the stop; and that he should be quiet and just hand over his information. This response was littered with one expletive, "fuck" and its various permutations. According to § 87(2)(b) this was an entirely discourteous, unprofessional response.

After the first officer issued a summons to § 87(2)(b) asked the second officer for his shield number. This officer said that he would write it down for § 87(2)(b) and asked him for a pen. The officer then handed the paper back to § 87(2)(b) and dropped the pen in § 87(2)(b) Rollin's lap. On this piece of paper, the officer identified himself as PO Vernelly, badge # 19278.

§ 87(2)(b)'s Statement to the CCRB:

§ 87(2)(b) was interviewed at the CCRB on August 21, 2006. § 87(2)(b) is a § 87(2)(b) white male who resides at § 87(2)(b), in Manhattan, NY. § 87(2)(b)

§ 87(2)(b)

On May 17, 2006, at approximately 1:15 AM, § 87(2)(b) the driver, and § 87(2)(b) the passenger, were traveling west on Houston Street in § 87(2)(b)'s vehicle. At this point, a patrol vehicle flashed its overhead lights, indicating that § 87(2)(b) should pull over. § 87(2)(b) realized that he was not wearing a seatbelt, and he put it on right as he stopped his vehicle. The patrol car stopped right behind § 87(2)(b)'s car and PO Markian Kopystianskyj and PO Wilson Vernelly of the 6th

Precinct exited the police vehicle. § 87(2)(b) and § 87(2)(b) stayed in their vehicle, while PO Kopystianskyj approached the driver's side and PO Vernelly approached the passenger's side.

At § 87(2)(b)'s car, PO Kopystianskyj asked § 87(2)(b) why he was not wearing a seatbelt. § 87(2)(b) replied that he was wearing a seatbelt. PO Kopystianskyj told him that he was not wearing a seatbelt right before he was stopped. § 87(2)(b) admitted that he was not wearing a seatbelt and he said that he did not wear the seatbelt because he "just did not think about it." § 87(2)(b) asked PO Kopystianskyj if it was legal to pull someone over just because one is not wearing a seatbelt. § 87(2)(b) asked this question because he is from Massachusetts and at some point in Massachusetts, according to § 87(2)(b) it was illegal to pull someone over just for not wearing the seatbelt. PO Vernelly, who up to this point had not said anything, said, "What? Are you fucking kidding me? I cannot believe you are asking me this question. You did not have your seatbelt on. We pulled you over and you are not wearing the seatbelt. To make matters worse, you put your seatbelt on while we were pulling you over." § 87(2)(b) stated that while PO Vernelly was talking, he used the word "fuck" various times and in different permutations.

While PO Vernelly was lecturing § 87(2)(b) using the word "fuck" various times, § 87(2)(b) handed his license and his vehicle's papers to PO Kopystianskyj. PO Kopystianskyj did not say anything regarding § 87(2)(b)'s question about the legality of the stop. The two police officers then returned to the patrol car, where one of the officers wrote a summons for driving without a seatbelt. After a few minutes, both officers returned to § 87(2)(b)'s vehicle, and again, PO Kopystianskyj approached the driver's side and PO Vernelly approached the passenger's side. PO Kopystianskyj gave the summons to § 87(2)(b). Right before the officers left, § 87(2)(b) told PO Vernelly, "Can I have your badge number? I used to work for the city and I know my rights in this case." PO Vernelly replied in a sarcastic way that he would be happy to do so. PO Vernelly asked for a pen and a paper, wrote the number, and dropped the paper and the pen on § 87(2)(b)'s lap. As the two officers were getting into the patrol car, § 87(2)(b) exited § 87(2)(b)'s car and wrote down the number of the patrol vehicle (2417).

Results of Investigation

Civilian Statements

§ 87(2)(b)'s Statement to the CCRB:

§ 87(2)(b) was interviewed on September 22, 2006, at his home at § 87(2)(b) in Brooklyn.

On May 17, 2006, § 87(2)(b) was driving his car with his friend, § 87(2)(b) on Houston Street in Manhattan. At approximately 1:30 AM, § 87(2)(b) noticed that a police vehicle behind him flashed its lights, realizing that officers in the police vehicle were intending to pull him over. Thus, § 87(2)(b) pulled over to the left side of the street. As § 87(2)(b) was pulling over, he realized that he was not wearing a seatbelt, thus, he proceeded to put it on. After § 87(2)(b) stopped his vehicle and put on his seatbelt, two police officers approached § 87(2)(b)'s car.

PO Markian Kopystianskyj approached § 87(2)(b)'s side and PO Wilson Vernelly approached § 87(2)(b)'s side. PO Kopystianskyj said to § 87(2)(b) "Why aren't you wearing your seatbelt?" § 87(2)(b) replied, "Actually, I am wearing my seatbelt." PO Kopystianskyj then said, "Oh, that is because you just put it on. Is that right?" § 87(2)(b) replied, "Yes, that is correct." PO Kopystianskyj then asked § 87(2)(b) for his license and registration. As § 87(2)(b) was getting his license and registration, § 87(2)(b) said, "Excuse me officer, I have a question." PO Kopystianskyj said, "Yes, what is your question?" § 87(2)(b) asked, "Is it the law in New York State that you can pull over someone purely for not wearing their seatbelt? Or does it have to be in relation to some other offence?"

Right after § 87(2)(b) asked this question, PO Vernelly leaned over into the passenger's window and said, "Of course we can pull you over for whatever the fuck we want. Give us your fucking license and registration and stop fucking with us," or something like that. § 87(2)(b) was shocked and because he

did not have a confrontational tone when he asked this question, he just stopped asking any questions. § 87(2)(b) stated that when he asked this question, he realized that the nature of the question might offend an officer. For this reason, he used a polite tone when he asked this question. PO Kopystianskyj did not say anything regarding § 87(2)(b)'s question, and according to § 87(2)(b) PO Kopystianskyj was very polite and he did not appear to be offended. However, PO Vernelly reacted by displaying emotions of anger.

§ 87(2)(b) gave his license and registration to PO Kopystianskyj and then both officers withdrew from § 87(2)(b)'s vehicle. A few minutes later, both officers returned to § 87(2)(b)'s car and PO Kopystianskyj gave § 87(2)(b) a citation for not wearing a seatbelt. While PO Kopystianskyj was giving this summons to § 87(2)(b) told PO Vernelly, "I just finished working for the Mayor's Office three weeks ago. Can I have your badge number?" PO Vernelly changed his attitude after § 87(2)(b) asked for his badge number, and PO Vernelly proceeded to write his name and badge number on a piece of paper. After giving this piece of paper to § 87(2)(b) both officers returned to the police vehicle and left the scene. However, before the officers left the scene, § 87(2)(b) stepped out side of § 87(2)(b)'s vehicle and wrote down the number of the police vehicle.

Officer Statements

PO Markian Kopystianskyj's Statement to the CCRB:

PO Markian Kopystianskyj provided a statement to the CCRB on September 5, 2006 at 9:35 AM. On May 17, 2006, PO Kopystianskyj worked with PO Wilson Vernelly from 11:15 PM to 7:50 AM and was assigned to sector A/B/C. Both officers were dressed in uniform and assigned to patrol car # 2417. PO Kopystianskyj had the following memo book entries regarding the incident: *"At 1:05 AM, I had a car stopped at Laguardia Street and Houston Street, and then at 1:15 AM I resumed patrol—summons served."*

On May 17, 2006, at approximately 1:05 AM, PO Kopystianskyj was driving a police vehicle on Houston Street in Manhattan and PO Vernelly was sitting in the passenger's side. PO Kopystianskyj observed that the driver of a vehicle was operating the vehicle without a seatbelt. Thus, PO Kopystianskyj and his partner pulled the vehicle over. There were two occupants in the vehicle and PO Kopystianskyj approached the driver's side and PO Vernelly approached the passenger's side. PO Kopystianskyj talked to the driver and explained him that he had been stopped for not wearing a seatbelt. The driver responded in a very "sarcastic, arrogant manner" questioning the officers about whether or not police officers in New York City are allowed to pull someone over just for not wearing a seatbelt. PO Kopystianskyj said, "Yes." At that point PO Vernelly said, "Excuse me sir? What did you say?" Then PO Vernelly leaned down on the passenger's window and engaged in a conversation with the driver. Because there was a lot of noise on Houston Street, PO Kopystianskyj was unable to listen to the conversation between PO Vernelly and the driver. Also, because Kopystianskyj did not hear the conversation between the driver and his partner, PO Kopystianskyj did not know if PO Vernelly used profanity while talking to the driver.

Their conversation lasted for about one minute and PO Kopystianskyj did not know if the passenger was also involved in the conversation. After the driver finished his conversation with PO Vernelly, the driver gave PO Kopystianskyj his license and registration and both officers returned to the police vehicle, where PO Kopystianskyj wrote a summons for the driver for not wearing a seatbelt.

A few minutes later, both officers exited their patrol vehicle and approached § 87(2)(b)'s vehicle and PO Kopystianskyj gave the summons to the driver. PO Kopystianskyj did not remember if PO Vernelly had a second conversation with the driver or the passenger. PO Kopystianskyj also did not hear the driver or passenger asking for PO Vernelly's information. After giving the summons to the driver, PO Kopystianskyj and PO Vernelly returned to the police vehicle.

PO Wilson Vernelly's Statement to the CCRB:

PO Wilson Vernelly was interviewed on September 14, 2006. On May 17, 2006, PO Vernelly worked from 11:15 PM to 7:50 AM with PO Markian Kopystianskyj, was assigned to sector A/B/C, was in

uniform, and used RMP # 2417, of which PO Kopystianskyj was the driver. PO Vernelly had the following memo book entries regarding this incident, "At 1:05 AM, we stopped a vehicle. At 1:15 AM resumed patrol."

On May 17, 2006, PO Vernelly and PO Kopystianskyj were driving a police vehicle on Houston Street in Manhattan, and at approximately 1:05 AM, they decided to stop § 87(2)(b) because he was driving a vehicle without a seatbelt. After the officers pulled § 87(2)(b)'s vehicle over, the officers exited the police vehicle and approached § 87(2)(b)'s vehicle. § 87(2)(b) was sitting in the passenger's side. PO Kopystianskyj approached § 87(2)(b) by the driver's side and PO Vernelly approached § 87(2)(b) by the passenger's side. As soon as they approached the vehicle, PO Vernelly said, "Good evening gentlemen." PO Kopystianskyj then said something, but because § 87(2)(b) did not have his window all the way down, PO Vernelly was unable to listen to PO Kopystianskyj's words. Then, PO Vernelly told § 87(2)(b) to roll down his window and he was then able to hear that PO Kopystianskyj was asking § 87(2)(b) for his driver's license and registration. PO Vernelly also heard § 87(2)(b) ask whether or not wearing a seatbelt was a legitimate reason to stop someone. PO Kopystianskyj said, "Yes" and PO Vernelly did not say anything. Then § 87(2)(b) proceeded to get his documentation and while he was doing this, § 87(2)(b) and § 87(2)(b) were laughing. While laughing, § 87(2)(b) turned towards PO Vernelly and offered him his documents thinking that he had to give them to PO Vernelly. PO Vernelly then said, "Would you please do me a favor and give your driver's license and registration to that gentleman [PO Kopystianskyj]?"

According to PO Vernelly, neither of them responded to § 87(2)(b)'s question in a rude way or using any profanity. PO Vernelly stated that he did not say, "Excuse me sir, what did you say?" PO Vernelly also stated that he did not say anything when § 87(2)(b) asked the question about the legality of the stop even though PO Kopystianskyj stated that PO Vernelly leaned down on the passenger's window and talked to § 87(2)(b) about something that he could not hear.

§ 87(2)(b) eventually provided his documentation to PO Kopystianskyj and both officers returned to the police vehicle, where PO Kopystianskyj wrote a summons. After PO Kopystianskyj finished writing the summons, both officers exited the police vehicle and approached § 87(2)(b)'s vehicle in the same position they had previously approached it. PO Kopystianskyj said something to § 87(2)(b) while showing him the instructions on the back of the summons. § 87(2)(b) then told PO Vernelly that he used to work for Bloomberg in City Hall and asked PO Vernelly for his name and badge number. PO Vernelly then wrote his name and badge number on a piece of paper that § 87(2)(b) provided.

PO Vernelly did not know why § 87(2)(b) was telling him that he worked for Bloomberg in City Hall or why he wanted his name and badge number. § 87(2)(b) did not say that he was going to file a complaint or that he knew about police procedures. PO Vernelly stated that maybe § 87(2)(b) was upset because he believed that stopping them for just a seatbelt violation was an illegitimate stop. However, § 87(2)(b) never asked any questions about the legality of the stop. After PO Vernelly provided his name and badge number, both officers returned to the police vehicle and left the scene.

Civilian's CCRB and Criminal History:

§ 87(2)(b) had no history of filing CCRB complaints and had no previous arrest convictions.

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Because § 87(2)(b)'s driver's license was issued in Massachusetts, the disposition of the summons was not found in the DMV's database. However, § 87(2)(b) stated that he paid the summons.

Officer's CCRB History:

PO Wilson Vernelly is a five-year-veteran of the NYPD with no substantiated allegations.

Conclusions and Recommendations

Officer Identification:

PO Vernelly wrote down his name and badge number on a piece of paper and gave it to § 87(2)(b) [REDACTED]. [REDACTED] stated that PO Vernelly was discourteous while the officer who issued the summons (PO Kopystianskyj) was very professional. Thus, the discourtesy allegation is being pleaded against PO Vernelly.

Undisputed Facts:

First, § 87(2)(b) [REDACTED] was not wearing a seatbelt while he and § 87(2)(b) [REDACTED] were driving on Houston Street in Manhattan. Second, PO Kopystianskyj and PO Vernelly stopped § 87(2)(b) [REDACTED]'s vehicle and PO Kopystianskyj issued him a summons for driving without a seatbelt. Third, while PO Kopystianskyj was asking § 87(2)(b) [REDACTED] for his license and registration, § 87(2)(b) [REDACTED] asked him whether or not it was legal to stop someone for not wearing a seatbelt alone. Finally, § 87(2)(b) [REDACTED] informed PO Vernelly that he used to work for the Mayor's Office and demanded PO Vernelly's badge number, which was provided.

§ 87(2)(b), § 87(2)(g) [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b), § 87(2)(g) [REDACTED]

[REDACTED]
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§ 87(2)(b), § 87(2)(g)

Allegation A: PO Vernelly spoke obscenely and/or rudely to § 87(2)(b)

The Patrol Guide requires that officers “be courteous and respectful” when dealing with the public. The

§ 87(2)(b), § 87(2)(g)

“Depending on the circumstances, profanity is permissible where the officer has resorted to such language in order to forcefully make a point or to gain compliance with an order or direction.” For example, in *“Police Department v. Iacurto*, OATH Index No. 1064/90 (June 13, 1990), an officer who stated during a struggle with a student who grabbed her nightstick, “let go of the fucking stick,” “you want me to break your fucking neck?” and “fuck” 8 to 10 times, was not guilty of misconduct.” (*Police Department v. Seguinot*, OATH Index No. 522/00 (Feb. 3, 2000)). § 87(2)(b), § 87(2)(g)

Date: